

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
GREENVILLE DIVISION

IN RE:

MICHAEL WAYNE JONES

KEEYA DEBROW JONES

DEBTOR(S)

CASE NO.: 15-00629-5-SWH

CHAPTER 13

MOTION TO AVOID SECOND MORTGAGE LIEN

Now comes the debtor(s), through counsel and moves to avoid the second mortgage on her residence and shows the court as follows:

1. That this is a core proceeding pursuant to 28 U.S.C. Sections 151, 157 and 1334.
2. That the debtor filed a voluntary petition under Chapter 13 of the United States Bankruptcy Code on February 5, 2015.
3. That the debtors seek to avoid a mortgage lien pursuant to 11 U.S.C. Section 506(a).
4. That the debtor's residence located at 10 Spring valley Drive, Roanoke Rapids, North Carolina 27870, is subject to the following liens:

<u>Creditor</u>	<u>Description</u>	<u>FMV</u>	<u>Amount of Mortgage</u>
Citifinancial	1 st Mortgage	\$60,000.00	\$64,038.97
Springleaf Financial	2 nd Mortgage		\$41,745.86 (DEED OF TRUST ATTACHED)

5. That the first mortgage to Citifinancial totals \$64,038.97, and the fair market value of the debtor's residence per an *appraisal* dated October 25, 2011 is \$60,000.00, leaving no equity to secure the second mortgage to Springleaf Financial and the same should be avoided as is wholly unsecured through the debtors' Chapter 13 plan. The deed of trust recording the debt owed to Springleaf Financial for the second mortgage is found in Halifax County Register

of Deeds, Book 2213, Page 140, dated September 24, 2007.

6. The fair market value was determined by an appraisal performed using comparables and is believed to be accurate. The debtors have not made any home improvements since the date of the appraisal.

WHEREFORE, the Debtor moves the Court for an Order, declaring void, the note and second deed of trust owed to Springleaf Financial so as to allow said debt to be treated as an unsecured claim through the debtor's plan as there is no value to secure the mortgage holder's lien.

Dated: June 17, 2015

s/Lenita M. W. Arrington
Lenita M. W. Arrington
Attorney for Debtor(s)
Law Office of Lenita Webb Arrington
1027 East Tenth Street
Roanoke Rapids, North Carolina 27870
(252) 410-0100 Telephone
(252) 308-1803 Facsimile
State Bar # 25755

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NOTICE OF MOTION

TO: ALL PARTIES IN INTEREST

NOTICE IS HEREBY GIVEN of the Motion to Avoid Second Mortgage Lien filed simultaneously herewith by Lenita M. W. Arrington, Attorney for Debtor(s) in the above captioned case; and

FURTHER NOTICE IS HEREBY GIVEN that if you fail to respond or otherwise plead or request a hearing in writing within twenty-one (21) days from the date of this notice, the relief requested in the motion may be granted without further hearing or notice; and

FURTHER NOTICE IS HEREBY GIVEN that if a response and a request for a hearing is filed in writing by the trustee or other parties in interest named herein within the time indicated, a hearing will be conducted on the motion and response thereto at a date, time and place to be later set by this Court and all interested parties will be notified accordingly.

Dated: June 17, 2015

s/Lenita M. W. Arrington

Lenita M. W. Arrington

Attorney for Debtor(s)

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CERTIFICATE OF SERVICE

I, Lenita M. W. Arrington, attorney for Debtor(s), certify that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age;

That on June 17, 2015, I served a copy of the foregoing MOTION TO AVOID SECOND MORTGAGE LIEN and Notice of Motion on the following by depositing a copy thereof in the United States Mail, postage prepaid, addressed as follows:

VIA CERTIFIED MAIL
SPRINGLEAF FINANCIAL
ATTN: Managing Agent
PO Box 3251
Evansville, IN 47731-3251

Michael Wayne Jones
Keeya Debrow Jones
10 Spring Valley
Roanoke Rapids, NC 27870

That on June 17, 2015, I served a copy of the foregoing MOTION TO AVOID SECOND MORTGAGE LIEN and Notice of Motion on the following via electronic notification CM/ECF:

Richard M. Stearns
Chapter 13 Trustee
(Served electronically)

I certify under penalty of perjury that the foregoing is true and correct.

Dated: June 17, 2015

s/Lenita M. W. Arrington
Lenita M. W. Arrington
Attorney for Debtor(s)